

# EXHIBIT 5

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF MICHIGAN  
3 SOUTHERN DIVISION

4 No. 5:16-cv-10444  
IN RE: FLINT WATER CASES Hon. Judith E. Levy  
5 Mag. Mona K. Majzoub

6  
7  
8 HIGHLY CONFIDENTIAL  
9 VIDEOTAPED DEPOSITION OF ROBERT T. NICHOLAS  
10 VOLUME I  
11 Monday, December 9, 2019  
at 9:05 a.m.

12  
13  
14 Taken at: Weitz & Luxenberg PC  
3011 West Grand Boulevard, Suite 2100  
15 Detroit, Michigan 48202

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21 REPORTED BY: CAROL A. KIRK, RMR/CSR-9139  
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24

1                   You can answer.

2                   A.     Well, yeah, we saw it as paid due  
3 diligence.

4                   MR. CONNORS:   Okay.   I want to  
5 thank you for taking the time to answer  
6 my questions.

7                   I'm going to stop now and reserve  
8 time in the event of a recross.   And I  
9 will pass the witness.   Thank you.

10                  THE WITNESS:   Thank you.

11                  THE VIDEOGRAPHER:   Going off the  
12 record at 4:23 p.m.

13                  (Recess taken.)

14                  THE VIDEOGRAPHER:   We're back on  
15 the record at 4:26 p.m.

16                                 - - -

17                                 CROSS-EXAMINATION

18   BY MR. STERN:

19                  Q.     Mr. Nicholas, my name is Corey  
20 Stern.   I'm an attorney.   I represent LeeAnne  
21 Walters' children, as well as roughly 2,500  
22 other individual children.

23                                 I was appointed by the federal  
24 judge as liaison counsel in the federal

1 litigation, and by Judge Yuille in Genesee  
2 County as the lead counsel for plaintiffs in the  
3 state court litigation. And I only have a few  
4 questions for you. Mr. Connors was extremely  
5 thorough.

6 So I'll do my best to be quick,  
7 and same rules that he discussed about talking  
8 over each other apply.

9 I know that we just took a break,  
10 but if you need a break for any reason between  
11 now and when I'm done, just feel free.

12 Mr. Chen testified a couple of  
13 weeks ago now that his initial belief was that  
14 the city of Flint's expectations were  
15 unrealistic at the onset of this relationship  
16 between VNA or Veolia and the city of Flint.

17 Do you agree?

18 MR. MCELVAINE: Objection.

19 You can answer.

20 A. Yes. I think they -- they wanted  
21 an extremely fast solution, and it would take  
22 longer.

23 Q. What gave you the impression that  
24 they wanted an extremely fast solution?

1 Detroit. I don't want to rehash that whole  
2 conversation. What I'd like to ask you is, if  
3 that recommendation was not actually made by  
4 you, do you wish that you had recommended it  
5 sitting here today?

6 MR. MCELVAINE: Objection.

7 You can answer.

8 A. Again, we discussed with the city  
9 multiple times going back to Detroit. So we did  
10 mention it.

11 Q. I know. There's a lot of times  
12 where my wife recommends that I change my  
13 attitude. She tells me all the time I'm just --  
14 you know, I'm not being nice to the kids, or I'm  
15 not being nice to her. And she tells me I ought  
16 to be. She recommends that I do it.

17 Sometimes we just have discussions  
18 about it where she says, "Hey, you know, are you  
19 feeling okay? How is it going?"

20 There's definitely a difference  
21 from my perspective between having a  
22 conversation about the possibility of going back  
23 to the Detroit water source and saying to them,  
24 "Guys, we are Veolia. We're the engineer folks.

1 We're telling you we can do what you want us to  
2 do, but we recommend that you go back to the  
3 Detroit water source."

4 Did anybody from Veolia ever say  
5 anything like that to the city of Flint?

6 MR. MCELVAINE: Objection.

7 You may answer.

8 A. After we were on site and they  
9 evaluated the plant, the decision of the  
10 engineers was that they could operate the plant  
11 so it was in compliance. And when we discussed  
12 it with the city, the city told us that the  
13 decision go back to Detroit was complicated and  
14 they would make that decision. They wanted to  
15 know from us if we could run the plant in  
16 compliance.

17 Q. Did you ever personally say to  
18 anybody at the city of Flint, "I recommend that  
19 y'all go back to the Detroit water source"?

20 A. Again, I don't know the exact  
21 wording we had, but we said, "You could go back  
22 to the Detroit water source."

23 Q. Okay. Forget the exact wording.  
24 Did you ever urge -- personally did you ever

CERTIFICATE

I, Carol A. Kirk, a Registered Merit Reporter and Notary Public in and for the State of Michigan, duly commissioned and qualified, do hereby certify that the within-named ROBERT T. NICHOLAS was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by him was by me reduced to stenotype in the presence of said witness; that the foregoing is a true and correct transcript of the deposition so given by him; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by any attorney or party hereto or financially interested in the action; and I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Dexter, Michigan on this 23rd day of December 2019.



CAROL A. KIRK, RMR, CSR-9139

NOTARY PUBLIC - STATE OF MICHIGAN

My Commission Expires: August 19, 2022.

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